

REMOTE ONLINE NOTARIZATION



REMOTE ONLINE NOTARIZATION — AT A GLANCE

This article highlights a presentation by Jason Nadeau, SVP and Chief Digital Officer, FNF, on the topic of Remote Online Notarization. The topic is part of FNF's "Title Insight Series," which features timely information from our internal Commercial Real Estate experts regarding title-specific topics including policy changes and clarifications, legal insights and Underwriting considerations.

WHAT IS REMOTE ONLINE NOTARIZATION?

Remote online notarization (or RON) is one of the latest trends in closings and can be broken down into three steps:

- ▶ Electronically signing a document
- ▶ Electronically notarizing a document
- ▶ Witnessing the signing remotely by video

Sounds simple, but let's walk through why it's a little more involved than that.

HOW DOES IT WORK?

State laws called for specialized software that centered around a few key points: videoconferencing and recording tools; knowledge-based authentication; credential analysis; electronic signatures and tamper seals; and electronic notary seals and journals. This led to two additional levels of technology: answering a series of security questions and uploading a verifiable government ID (such as a driver's license), via webcam or by uploading a photo. Once a buyer or seller is verified, the document is signed, a tamper seal is added, and it's recorded in an electronic journal, for the convenience of customers.

THE EVOLUTION OF THE LAWS ...

Virginia passed the first version of an RON law in 2010, but there wasn't much adoption. Because eRecordings and eMortgages weren't as prevalent as they are today, there was little benefit to making *part* of the residential real estate process remote. The remote aspect is what's unique now, so we're seeing more adoption than previously. To that end, Texas, Montana and Nevada (working with ALTA and MISMO, the Mortgage Industry Standards Organization) either passed or are passing improved remote notary laws. In 2019, Minnesota, Michigan, Tennessee, Ohio, Indiana, and Vermont all passed

RON laws, and as many as 16 more states may pass them in 2020. By 2021, remote online notarizations will be available in states that represent more than 60 percent of the yearly residential transactions.

THE VENDOR FRENZY

The initial RON law sparked a vendor frenzy, as companies reimaged notarization, and vendors responded by building the technical tools to allow RONs. Vendors and some underwriters pushed for interstate recognition, relying on the "Full Faith and Credit" clause of the U.S. Constitution (Article IV, Section I), but this led to conflict. FNF as an Underwriter has chosen to allow remote notarization:

- ▶ IF the buyer and seller are located in the United States;
- ▶ AND both the notary and the property are in an RON-approved state.

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APPROVED SOFTWARE

Today, FNF approves the use of three independently developed software systems for RONs: NotaryCam, Notarize and Pavaso.

THE CHALLENGES

Technical challenges to remote notarization include the need for high-speed services and sophisticated buyers, sellers and even REALTORS®. Further complicating the issue is that 20 percent of users access the Internet through a cell phone rather than a laptop, and reading legal documents on a small screen isn't practical. None of these issues are insurmountable, and FNF will continue to watch the technology develop and provide a roadmap for implementation.